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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN L. EDMONDS, individually and as a Managing
General Partner of FIFTH AND
106TH STREET HOUSING COMPANY, INC.,
LOGAN PLAZA ASSOCIATES, LP CHARLES H.
ASSOCIATES a/k/a CHARLES H. HILL
ASSOCIATES, LP AND AS A LIMITED PARTNER
OF CHURCH HOME ASSOCIATES, LP,

Plaintiff,

- against -

ROBERT W. SEAVEY, individually and as a General
Partner of FIFTH AND 106TH STREET ASSOCIATES,
LP, LOGAN PLAZA ASSOCIATES, LP, CHARLES
HILL ASSOCIATES, CHARLES HILL ASSOCIATES,
LP and as a Limited Partner of CHURCH HOME
ASSOCIATES, LP; PHYLLIS M. SEAVEY, individually
and as owner, manager and member of DALTON
MANAGEMENT COMPANY LLC; AVERY B.
SEAVEY, individually and as a General Partner of
LOGAN PLAZA ASSOCIATES, LP, CHURCH
HOME ASSOCIATES and owner of DALTON
MANAGEMENT COMPANY, LLC; and RONALD
DAWLEY, as Chief Executive Officer of DALTON
MANAGEMENT COMPANY, LLC;
DALTON MANAGEMENT COMPANY, LLC, and
THE SEAVEY ORGANIZATION; and MARKS
PANETH & SHRON, Auditors,

Defendants.

08 – CV – 5646 (HB)

**NOTICE OF MOTION
TO DISMISS THE
COMPLAINT AS AGAINST
DEFENDANT MARKS
PANETH & SHRON
PURSUANT TO FED. R. CIV.
PROC. 12(B)(6) AND 9(B)**

PLEASE TAKE NOTICE that upon the accompanying Declaration of William J. Kelly, Esq., dated December 12, 2008, and the exhibit annexed thereto, the defendants Marks, Paneth & Shron, LLP, will move this Court, at a time to be determined by the court, at the United States District Court located at Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007-1312 or as soon thereafter as counsel may be heard, for an order pursuant to Fed. R. Civ. Pro. 12(b)(6) and 9(b), for an order dismissing the complaint as against Marks Paneth & Shron, LLP in its entirety and for any other relief the court finds just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to Local Rule 6.1(b) any and all opposing Affirmations and/or Affidavits are to be served within 10 business days of the date of service of this motion.

Dated: New York, New York
December 12, 2008

Wilson, Elser, Moskowitz, Edelman
& Dicker LLP

By:



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William J. Kelly (WK-5966)

Attorneys for Adversary

Proceeding Defendants

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